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Commission on Crime Prevention and Criminal Justice
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World crime trends and emerging issues and responses in the field of crime prevention and criminal justice

Mexico: draft resolution

International cooperation against trafficking in cultural property

The Commission on Crime Prevention and Criminal Justice,

Recognizing the indispensable role of international cooperation in crime prevention and criminal justice responses to counter trafficking in cultural property and related offences in a comprehensive and effective manner, stressing that the development and maintenance of fair and effective criminal justice systems should be a part of any strategy to counter terrorism and transnational organized crime, and recalling in this respect the provisions of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[1]

Reaffirming the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[2] adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 November 1970, the Convention on Stolen or Illegally Exported Cultural Objects,[3] adopted by the International Institute for the Unification of Private Law on 24 June 1995, and other relevant international instruments,

Welcoming the central role played by the United Nations Office on Drugs and Crime and the International Criminal Police Organization (INTERPOL) in preventing and countering all forms and aspects of trafficking in cultural property and related offences, including through fostering broad law enforcement and judicial cooperation,

Noting the efforts undertaken by the Committee on Offences relating to Cultural Property of the Council of Europe concerning a legal framework to address trafficking in cultural property,

Recalling General Assembly resolution 66/180 of 19 December 2011 on strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking, in which the Assembly urged

* E/CN.15/2018/1.

[1] United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

[2] Ibid., vol. 823, No. 11806.

[3] Ibid., vol. 2421, No. 43718.

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Member States and relevant institutions to reinforce and fully implement mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat all forms and aspects of trafficking in cultural property and related offences, such as the theft, looting, damage, removal, pillage and destruction of cultural property, and to facilitate the recovery and return of stolen and looted cultural property, and recalling also General Assembly resolutions 67/80 of 12 December 2012 on the return or restitution of cultural property to the countries of origin, 68/186 of 18 December 2013 on strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking, and 69/196 of 18 December 2014, entitled "International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences",

Recalling also the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,[4]

Recalling further its resolution 24/2 of 22 May 2015, entitled "Strengthening crime prevention and criminal justice responses with respect to trafficking in cultural property and other related offences",

Recalling that article 18, paragraph 1, of the United Nations Convention against Transnational Organized Crime[5] requires States parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, and that article 18, paragraph 13, requires States parties to designate a central authority with the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution,

Taking note of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, adopted by the General Assembly in its resolution 69/196, and of the practical assistance tool to assist in the implementation of the Guidelines,

Recognizing that the Organized Crime Convention offers expanded opportunities for international cooperation in the fight against transnational organized crime, and convinced that, in this regard, the potential of this instrument is yet to be fully developed,

Convinced that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters can contribute to the development of more effective international cooperation to combat transnational crime,

Recognizing the transnational nature of trafficking in cultural property and the importance of strengthening international cooperation, including through mutual legal assistance, in the detection, investigation and prosecution of this crime,

Bearing in mind that the establishment and optimization of swift, secure and reliable communication channels are vital in order to provide a rapid and timely response to a fast-moving crime of global magnitude,

Underlining the importance of all relevant United Nations entities coordinating their efforts while implementing their respective mandates,

1. *Encourages* Member States that have not yet done so to accede to the United Nations Convention against Transnational Organized Crime[5] and to consider it a basis for requests for mutual legal assistance, including in relation to trafficking in cultural property;

[4] General Assembly resolution 70/174, annex.

[5] United Nations, *Treaty Series*, vol. 2225, No. 39574.

2. *Welcomes* the decisions of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its eighth session to promote greater use of the Convention by central authorities in extradition and mutual legal assistance and to enhance the effectiveness of those authorities;

3. *Requests* Member States to review their legislation, procedures and other practices relating to mutual legal assistance and, if necessary, amend them in order to comply with the Organized Crime Convention and other applicable international legal instruments;

4. *Calls upon* Member States in which cultural property originates and is traded, and through which such property transits, to request and provide greater international cooperation in investigations, prosecutions, seizure and confiscation in relation to, as well as in the return, restitution or repatriation of, trafficked, illicitly exported or imported, stolen, looted, illicitly excavated or illicitly traded cultural property, and in judicial proceedings, through appropriate channels and in accordance with domestic legal frameworks, and to make effective use, to that end, of relevant tools and databases developed under the auspices of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization (INTERPOL) and the World Customs Organization, within their respective mandates, and of relevant regional, subregional and bilateral agreements;

5. *Invites* Member States to consider criminalizing the bringing of cultural property into and the removal of such property from their national territories, as well as its transfer, where such acts violate the legal provisions adopted in the country of origin of that property;

6. *Calls upon* Member States, in accordance with their domestic legislation, to promote among their central authorities the timely exchange of information and to establish or strengthen swift and reliable lines of communication and mechanisms for consultation and coordination between those authorities and the national bodies mandated to counter trafficking in cultural property making use, where possible, of relevant cooperation networks in order to promptly notify countries of origin when objects that may be cultural property removed from their territory are identified;

7. *Encourages* Member States to consider preparing guidelines that specify the requirements and procedures for requesting mutual legal assistance in cases of trafficking in cultural property and to make them public, if possible, in at least one of the official languages of the United Nations, as well as to share such information with the Secretariat;

8. *Invites* Member States to consider designating contact points to facilitate international cooperation, in accordance with the provisions of the Organized Crime Convention, for the purpose of investigating and prosecuting trafficking in cultural property, and to report that information to the United Nations Office on Drugs and Crime for inclusion in the directory of competent national authorities under the Convention, and requests the Office to keep that information up to date;

9. *Urges* Member States and relevant international organizations, in cooperation with the United Nations Office on Drugs and Crime, to develop national, subregional, regional and international strategies, as appropriate, and other necessary measures, including the establishment, in accordance with domestic legislation, of designated central authorities and effective points of contact dedicated to facilitating the procedures related to international cooperation, including for extradition and mutual legal assistance requests, in order to effectively address transnational organized crime, including trafficking in cultural property;

10. *Recommends* that Member States prepare lists or inventories of stolen and/or lost cultural property, and consider making them public in order to facilitate the identification of that property, as well as use the tools at their disposal, such as the red lists of the International Council of Museums, the INTERPOL database on

stolen works of art and the ARCHEO information exchange network of the World Customs Organization, in order to facilitate the actions of law enforcement agencies;

11. *Encourages* Member States, including in collaboration with the United Nations Office on Drugs and Crime, to provide training on international legal assistance to central authority officials, as well as to their ministerial, law enforcement, expert and other authorities involved in the detection, investigation and restitution of trafficked cultural property;

12. *Calls upon* Member States to share information, on a voluntary basis, on their experiences and good practices and to bring those experiences and good practices to the attention of the United Nations Office on Drugs and Crime, and requests the Office to compile and disseminate that information;

13. *Requests* Member States, in cases in which a request for mutual legal assistance cannot be executed for any reason, to inform the requesting State, before refusing the request, of the reasons for such refusal, to enable the requesting State to rectify the request;

14. *Invites* Member States to conduct the analyses necessary to identify any legislative or operational obstacles preventing full implementation of article 18 of the Organized Crime Convention, particularly in cases of trafficking in cultural property, and to inform the United Nations Office on Drugs and Crime accordingly;

15. *Requests* the United Nations Office on Drugs and Crime to continue to provide advisory services and technical assistance to Member States, at their request, in relation to international cooperation in combating trafficking in cultural property, in cooperation with relevant international organizations and bodies;

16. *Also requests* the United Nations Office on Drugs and Crime, pursuant to paragraph 7 above, to collect the information on requirements and procedures provided by countries in relation to the provision of mutual legal assistance, and to disseminate it through the Sharing Electronic Resources and Laws on Crime knowledge management portal;

17. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes of the present resolution in accordance with the rules and procedures of the United Nations.